

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SARAH MOLINA, *et al.*

Plaintiffs,

v.

CITY OF ST. LOUIS *et al.*,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

Case No. 4:17-cv-2498-HEA

JURY TRIAL DEMANDED

DEFENDANT CITY OF ST. LOUIS' MOTION TO DISMISS

COME NOW Defendant City of St. Louis ("City"), by and through its attorney Julian Bush, City Counselor for the City of St. Louis, pursuant to Federal Rule of Civil Procedure 12(b)(6), and for City's Motion to Dismiss states as follows:

1. Plaintiffs Sarah Molina ("Molina"), Christina Vogel ("Vogel"), and Peter Groce ("Groce") (collectively "Plaintiffs") allege, pursuant to 42 U.S.C. § 1983, that several unidentified individual police officers retaliated and used excessive force against them on August 19, 2015.

2. Plaintiffs' Complaint names as defendants six "John Doe" police officers, along with the City of St. Louis and the County of St. Claire.

3. Plaintiffs assert a First Amendment retaliation claim (Count I) against all defendants and a Fourth Amendment excessive force claim (Count II), likewise against all defendants.

4. The facts alleged by Plaintiffs' Complaint are insufficient to establish a claim for municipal liability.

5. A memorandum of law in support of this motion is filed herewith and incorporated herein by reference.

WHEREFORE, for all of the reasons set forth above, City respectfully requests that this honorable Court grant City's Motion to Dismiss and enter an order dismissing Counts I and II against City.

Respectfully submitted,

JULIAN BUSH
CITY COUNSELOR

/s/ Andrew D. Wheaton
Andrew D. Wheaton #65269 MO
Associate City Counselor
Attorney for City of St. Louis
City Hall, Room 314,
St. Louis, MO 63103
314.622.3361
FAX: 314.622.4956
wheatona@stlouis-mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2017, the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system.

/s/ Andrew D. Wheaton